IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.1196 OF 2001

IN

WRIT PETITION NO.1184 OF 2000

...

Canara Bank ...Appellant

v/s.

Canara Bank Staff Union,
Fort, Mumbai ...Respondents

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Mr.P.K.Rele, Sr.Counsel with Mr.R.P.Rele and Mr.P.Shah for the Appellant.

Mr.C.U.Singh, Sr.Counsel with Mr.Sunil Dighe for Respondent.

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CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 18TH OCTOBER, 2007

P.C.:

1. This Appeal is directed against the order dated 13-6-2000 passed by the learned single Judge of this Court in Writ Petition No.1184 of 2000. By that order the learned single Judge rejected the petition, but ordered some modification in the award.

2. That Writ Petition was filed by the Petitioner challenging the award made by the Central Government Industrial Tribunal dated 30-11-1999. By that award, basically, the Industrial Tribunal held that the workmen whose names were mentioned in the Reference are entitled to 3/4th wage scale from the date of their initial appointment. It is an admitted position that almost the workmen whose names were mentioned in the Reference, were regularised as a part-time employees on 3/4th wage scale from 1996-97. Their case was that they are entitled to be paid in

the same scale from the date on which they were appointed as part-time employees in the Printing & Stationary Department. That case has been accepted by the Tribunal. Though the Tribunal has directed that their services should be regularised from the date of their initial appointment, the learned Counsel appearing for the Respondent stated before us that what the Respondent is really claiming is that though they are given regularisation from 1996-97, they are entitled to be paid in the same scale i.e. 3/4th wage scale from the date of their initial appointment.

3. We have heard the learned Counsel for both sides at length.

4. We find that a dispute in relation to similarly situated workmen of the Appellant/Bank was referred by the appropriate Government to the Central Government Industrial Tribunal, which was Reference No.GTIT-2/40 of 1997. That Reference was decided by the Tribunal by award dated 20-11-1998. In that case also the workmen were working in the Printing & Stationary Section. In that case they were given regularisation from 1990. But they were claiming

payment of wages in the same scale i.e. 3/4th wage scale from the date of initial appointment. The Tribunal by its order dated 20-11-1998 accepted their demand and made an award for payment of 3/4th wage scale to those part-time employees from the date of their initial appointment. Against that order, Writ Petition No. 1851 of 1999 was preferred by the Bank before this Court. That Writ Petition was dismissed by order dated 27th July, 1999 by the learned single Judge of this Court. An appeal was filed against that order. There was delay in filing that appeal. Therefore, Notice of Motion for condonation of delay in filing the appeal was taken out. By order dated 23-1-2002 passed in Notice of Motion No.3009 of 2000, the delay was not condoned, as a consequence the Appeal was also dismissed. Thus, the order dated 27th July, 1999 has become final between the parties. We find that the case of the workmen involved in the earlier Reference and the present Reference is similar. Both set of workmen were working in Printing & Stationary Department. Both set of workmen were part-time employees. Both set of workmen were given regularisation. One set of workmen was given regularisation from 1990 and other set of workmen was given regularisation from 1996-97

and in the case of both the sets of workmen the Tribunal has found that though they have been given regularisation from the subsequent date, they are entitled for the 3/4th wage scale from the date of their initial appointment. In our opinion, as the earlier award has become final between the parties and as the learned single Judge of this Court has declined to interfere with this award and one of the reasons given by the learned single Judge is that the Writ Petition against the earlier award has been rejected by this Court, it will not be appropriate for us to interfere with the order of the learned single Judge, where he has declined to exercise his extra ordinary jurisdiction and disturb the award, because earlier award in relation to the similarly situated employees has now been accepted by the Bank. If we interfere with the award, one set of workmen will be getting 3/4th wage scale from the date of initial appointment and the other set of workmen who are similarly situated would be denied 3/4th wage scale from the date of their initial appointment. Considering that the Appellant is a Nationalised Bank such a situation is not desirable.

5. Though, we are not inclined to set aside the

award, however, in our opinion, certain modifications in the award are liable to be made by consent of the parties. The modifications in the award that are liable to be made are as follows:-

(i) So far as workman whose name appears at serial No.13 in the order of Reference i.e. Mr.Sat Pal is concerned, he will not be entitled any benefits under the Award, because in the award there are no reasons given why he is entitled to the benefits of the award;

(ii) So far as workmen whose names appear at serial Nos.14 to 20 i.e. Mr.S.S.Rawat, Mr.Giraga Ram, Mr.Vijay Kumar, Mr.Gunmail Singh, Mr.Jaswinder Singh, Mr.Balbin Singh & Mr.Rajkumar, they will be entitled to wages in the 3/4th wage scale as per the award from 12-7-1987;

(iii) So far as workman whose name appears at serial No.21 i.e. Mr.B.Ashokumaran Nair and the workman whose name appears at serial No.23 i.e. Mr.St.Chandrabhaw are concerned, they will be given benefits of the scale under the award by the Bank on their producing evidence, including the evidence that

might have been produced before the Tribunal, before the Bank showing the exact date from which they were appointed in the Printing & Stationary Department, so that they will get the scale from that date.

(iv) So far as workman whose name appears at serial No.22 i.e. Mr.N.Thulsadharan is concerned, he will be entitled to the benefits under the award from 21-5-1985.

Appeal disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)